

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

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DATE: August 10, 2000

TO: Orange County Zoning Administrator

FROM: Planning and Development Services Department/Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA00-0065 for Coastal Development Permit and Variance.

PROPOSAL: A Coastal Development Permit is required to demolish an existing single-family dwelling and construct a new three-level, 4,407 square foot, single-family dwelling on a 3,592 square foot lot. A Variance is request to: 1) allow the garage entrance to be setback 12 ½ feet from the curb when a setback of 18 feet is required; and, 2) allow the dwelling to be setback 5 feet from the rear property line when a setback of 8 ¼ feet from the rear property line is required.

LOCATION: In the community of Emerald Bay, ocean side of Pacific Coast Highway at 51 Emerald Bay. Fifth Supervisorial District.

APPLICANT: Rod and Suzanne Fisher, property owner
John O'Neill Architectural Design, agent

STAFF William V. Melton, Project Manager
CONTACT: Phone: (714) 834-2541 FAX: (714) 834-4652

SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA00-0065 for Coastal Development Permit and Variance subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The subject site is developed with a multi-story, single-family dwelling. The existing house has a front setback of 8 inches, a rear setback of 4 feet and side setbacks of 4 ½ feet. The applicant proposes to demolish the existing residence and construct a new multi-level, single-family dwelling. The footprint of the proposed dwelling is similar to the existing dwelling's footprint, and conforms to the Emerald Bay setbacks of 5 feet from all property lines. The site is a shallow building site with an average depth of 55 feet and an average width of 59 feet.

The shallow building site designation permits front and rear setbacks of 15 percent of the average depth, which for this lot is a front and rear setback of 8 ¼ feet. Additionally, the front setback for a lot can also be established by averaging the front setbacks of the adjoining lots. The two lots on either side of the subject site each have an existing front setback of 5 feet or less. Therefore, using the shallow lot and

averaging methods for setbacks, the site has a front setback requirement of 5 feet and a rear setback requirement of 8 ¼ feet.

With a proposed rear yard setback of 5 feet, the applicant is required to obtain approval of a variance. No variance is required for the front setback of the dwelling. However, a garage is proposed to have the entrance to the garage at 12 feet back from the curb. A setback of 18 feet is required. A typical garage setback in Emerald Bay is 6 feet. The garage can accommodate up to four cars. Only two of the spaces are counted as standard parking spaces toward the required off-street parking. The other two parking spaces are in tandem at the rear of the garage and are not counted towards the off-street parking requirements. Since only two parking spaces are required, the project conforms to the off-street parking standard for residential covered parking.

SURROUNDING ZONING AND LAND USE:

The project site and all surrounding properties are zoned R1 (CD) and developed, with single-family dwellings. Emerald Bay also has a certified Local Coastal Program. All properties ocean side of Pacific Coast Highway are also subject to regulations contained in Zoning Code Section 7-9-118 “Coastal Development” District. In general, these property owners are required to obtain approval of a Coastal Development prior to demolishing, making large additions to an existing residence and/or construction of a new dwelling. Properties located inland of Pacific Coast Highway, are not subject to the requirement of obtaining a Coastal Development Permit.

REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site and occupants of homes within 100 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to five County Divisions and the Emerald Bay Community Association.

As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions by staff. The Emerald Bay Community Association gave preliminary approval of this proposal.

CEQA COMPLIANCE:

Negative Declaration No. PA000065 (Exhibit 2) has been prepared for this proposal. It was posted for public review on June 22, 2000 and became final on July 14, 2000. Prior to project approval, the Zoning Administrator must find this ND adequate to satisfy the requirements of CEQA. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

In accordance with the Emerald Bay LCP, approval of a Coastal Development Permit is required for the demolition of the existing dwelling and construction of the new dwelling, because the property is located between the ocean and (Pacific Coast Highway). Approval of a Coastal Development Permit for this proposal raises no issues. This project site is also in an appealable area subject to separate Coastal Commission appeal procedures.

A variance is required because the single-family dwelling, as proposed, does not conform to the site development standards of the R1 District and the Zoning Code. It does, however, conform to the Emerald Bay site development standards, which have stricter height requirements and less strict setback standards than the R1 zone. Because of the conflicting standards, a large majority of homes in Emerald Bay have front and/or rear setback variances. There are approximately 550 homes in Emerald Bay; staff estimates that over 1,500 setback variances have been approved. The proposed rear yard setback and the front garage setback variance requested through this Planning Application is typical of previous setback variances approved throughout the Emerald Bay community.

Issues regarding the proposed building and associated setbacks are normally addressed through a series of meetings conducted by the Emerald Bay Community Association. In most cases, adjoining property owners concerns are addressed and modification to the proposed structure are made before the proposal is submitted to the County. However, before this variance request can be approved, the Zoning Administrator, in accordance with State and County planning laws, must be able to make the following variance findings listed below. If the Zoning Administrator can not make these findings, the application must be disapproved.

1. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.
2. Approval of the application will not constitute a grant of special privileges which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

The rear yard setback variance is typical of setback variances previously approved throughout Emerald Bay. The variance proposed for garage entrance setback is also typical. Staff is of opinion that the Zoning Administrator is able to make these two special variance findings. The special circumstances for approving the variance requested for this proposal is in Finding no. 13 of Appendix A. Staff supports the applicant's request for the garage and rear setback variance and makes a recommendation as follows.

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA00-0065 for Coastal Development Permit and Variance subject to the attached Findings and Conditions of Approval.

Respectfully submitted

C. M. Shoemaker, Chief
CPSD/Site Planning Section

WVM

Folder: D/Emerald Bay/PA00-0065 Staff

APPENDICES:

- A. Recommended Findings
- B. Recommended Conditions of Approval

EXHIBITS:

1. Applicant's Letter of Explanation
2. Environmental Documentation
3. Site Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.

In addition, this project is within the Coastal Zone and is an "appealable development". Approval of an appealable development may be appealed directly to the California Coastal Commission (telephone number 562-560-5071), in compliance with their regulations, without exhausting the County's appeal procedures.